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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA

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8 RICK SALOMON,

9 Plaintiff,

Case No. 2:14-cv-02225-MMD-PAL

10 v. ORDER

11 FEDERAL NATIONAL MORTGAGE
ASSOCIATION,

12 Defendants.

13 and

14 FEDERAL HOUSING FINANCE AGENCY,
as Conservatory of the Federal National
Mortgage Association,

15 Intervenor.

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17 Before the Court is Defendant Federal National Mortgage Association (“Fannie
18 Mae”) and Intervenor Federal Housing Finance Agency’s (“FHFA”) (collectively, “Fannie
19 Mae”) Motion for Summary Judgment (“Motion”). (Dkt. no. 26.) Plaintiff Rick Solomon
20 has opposed (dkt. no. 36) and Fannie Mae has replied (dkt. no. 45).

21 The Motion raises the same legal issue as that raised in Fannie Mae’s motion for
22 summary judgment in a related case, case no. 2:15-cv-00112-MMD-CWH (“Related
23 Case”). In fact, the Court held a joint hearing for both cases on February 10, 2016.
24 (Dkt. no. 62.) On the identical legal issue, the Court finds that NRS § 116.3116 is
25 preempted to the extent that it allows an HOA foreclosure sale to extinguish a first deed
26 of trust held by FHFA as Fannie Mae’s conservator without FHFA’s consent. The Court
27 incorporates its reasoning in the Order denying Fannie Mae’s motion in the Related
28 Case. (See dkt. no. 65 in the Related Case.)

1 As in the Related Case, Fannie Mae relies in part on the declaration of John
2 Curcio ("Curcio Declaration), Fannie Mae's Assistant Vice President, which includes
3 printouts from Fannie Mae's Servicer and Investor Reporting system. (Dkt. no. 26-2.)
4 Viewing the evidence submitted with the Curcio Declaration in the light most favorable
5 to the non-moving party, the Court finds that a rational trier of fact could find that Fannie
6 Mae has not demonstrated that it has a property interest in the property at issue in this
7 case at the time of the HOA foreclosure sale for the same reasons explained in the
8 Related Case. (See dkt. no. 65 in the Related Case.) Accordingly, although the Court
9 agrees with Fannie Mae on the preemption issue, the Court will deny the Motion.

10 DATED THIS 17th day of March 2016.



11 MIRANDA M. DU
12 UNITED STATES DISTRICT JUDGE

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